

Aaron S. Halpern
THE JACOB D. FUCHSBERG LAW FIRM, LLP
3 Park Avenue, 37th Floor
New York, NY 10016
(212) 869-3500
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

RICHARD UMBRIGHT,

Plaintiff,

-against-

CLIFFORD HURLY, D.O., QUTUBUDDIN DAR, M.D.,
CRISTINA MISA, M.D., NANCY HILL, RN, and HEALTH
CARE PROVIDERS JANE AND JOHN DOE AT NEW
YORK STATE DEPARTMENT OF CORRECTIONS 1 – 10

Defendants.

Civil Action No.:
1:20-CV-01228 (LJV)(JJM)

**STIPULATION AND
ORDER OF DISMISSAL**

IT IS HEREBY STIPULATED AND AGREED, by and between the parties to this action, through their undersigned attorneys, that the parties to this action have agreed as follows:

WHEREAS, Plaintiff RICHARD UMBRIGHT brought this civil action, 1:20-CV-01228 in the United States District Court for the Western District of New York (the “Federal Action”), to allege a Causes of Action under 42 U.S.C. § 1983 and Eighth and Fourteenth Amendments to the United States Constitution as alleged in the Amended Complaint filed on April 20, 2021 (Doc # 20) and was further amended by Stipulation filed on May 20, 2021 (Doc. #22) against Defendants CLIFFORD HURLY, D.O., QUTUBUDDIN DAR, M.D., CRISTINA MISA, M.D., NANCY HILL, RN, and HEALTH CARE PROVIDERS JANE AND JOHN DOE AT NEW YORK STATE DEPARTMENT OF CORRECTIONS 1 – 10. (hereinafter “Defendants”);

WHEREAS, Defendants filed a motion for summary judgment on November 2, 2022 in the Federal Action (Doc. #43-52) (hereinafter “Defendants’ Motion for Summary Judgment”);

WHEREAS, Plaintiff RICHARD UMBRIGHT has brought an action, pending in the New York State Court of Claims, *Richard Umbright v. The State of New York*, Claim No. 135315 (hereinafter the “Court of Claims Action”), alleging causes of action under New York State laws against agents, servants, employees, and contractors of New York State Department of Corrections including but not limited to the Defendants named herein;

WHEREAS, Plaintiff hereby agrees to discontinue with prejudice the sole Cause of Action pending in the Federal Action, arising from 42 U.S.C. § 1983 and Eighth and Fourteenth Amendments to the United States Constitution thereby rendering Defendants’ Motion for Summary Judgment moot, without affecting any claims or allegations that were brought in the Court of Claims Action;

WHEREAS, no party hereto is an infant or incompetent person for whom a committee has been appointed;

WHEREAS, it is stipulated and agreed that facsimile signatures, including signatures and electronic signatures, shall be accepted as originals for the purpose of this Stipulation and Order of Dismissal;

WHEREFORE, IT IS HEREBY ORDERED, STIPULATED, and AGREED that the above-captioned action is dismissed with prejudice, without costs to either party as against the other, with no effect on the New York State Court of Claims action *Richard Umbright v. The State of New York*, Claim No. 135315.

(Remainder of this page intentionally left blank with signature blocks to follow on the next page)

Dated: December 27, 2022

The Jacob D. Fuchsberg Law Firm, LLP



Attorneys for Plaintiff
3 Park Avenue, 37th Floor
New York, New York 10016
(212) 869-3500

Dated: December 27, 2022

New York State Office of the
Attorney General

s/Wendy E. Morcio

By: Wendy E. Morcio, Esq.
Assistant Attorney General
Attorneys for Defendants
Litigation Bureau
350 Main Street, Suite 300A
Buffalo, NY 14202
(716) 853-8476

IT IS SO ORDERED.

DATED: _____

Hon. Jeremiah J. McCarthy